

Additional Comments From FPL Energy on CEC/CDFG “Statewide Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development”

These comments from FPL Energy are intended to complement/supplement other comments submitted by CEERT and the organizations it represents.

- p. 4: The draft guidelines suggest that if field work is more than five years old, it should not be used as a basis for requiring less study. Any reference to the age of the data (e.g., 5 years old) should be deleted since certain data (e.g., species occurrence and information on migratory pathways) may be valid even if decades old. Rather, the document should advocate the use of data and information that is credible and scientifically defensible.
- p. 10: States that most pre-permitting surveys should last a minimum of one year (we agree) but then suggests that certain (e.g. large) projects may need multi-year studies to examine habitat fragmentation and species migration and habitat use patterns. Since most projects could arguably fall into the category of projects requiring more than one year of surveys, the one year minimum is more likely to become the exception than the rule. This, more than any other aspect of the draft guidelines (with the exception of certain adaptive management language discussed later in these comments) has the very real potential of stifling wind energy development in California.

While two or more years of data will, in many cases, be better than one from a purely statistical perspective, the more important question is whether the additional data is likely to significantly change the project’s overall risk profile enough such that mitigation measures the project proponent is willing to commit to based on the one year of data would become insufficient when two years of data are considered. The burden should be on the individual/organization asking for more than one year of survey data to demonstrate that it will. Otherwise, the guidelines will, in most cases, cause unnecessary project delays and excessive expenditures.

- p.10, last para: Delete any reference to the age of the data in terms of its utility in supporting less than a full year of pre-permitting studies (see comment above). Also, change sentence beginning on line 5 of this para to: “Less pre-permitting study might be sufficient for a [delete the word small] project *near or* adjacent to an existing, well-studied site for which there is *sufficient* [delete “a high level of”] knowledge about potential impacts to birds and bats and for which operations monitoring studies have *defined the* [delete “confirmed the low”] level of impacts *such that additional studies are not likely to significantly change the project’s risk profile or any mitigation measures the project proponent may have agreed to.*”

Neither the size of the new project or the level of impact associated with the existing project should be a factor in determining if existing data at a nearby site should be used to justify less than a year of pre-construction studies (or post-construction

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studies for that matter). For example, the new project could be the same size as a nearby large project, and if the topography and habitat are very similar and there are no other variables that would suggest a significant difference in risk, then extrapolation of data from the existing site to the new site may very well support something less than a full year of pre-construction surveys. Similarly, the impacts associated with the existing site should not have to be “low” in order for the data to be extrapolated to a new project nearby. What’s important is that the impacts of the existing site be sufficiently *defined* (whether they are low, moderate or high) such that defining them again at the new nearby site is simply a waste of time and resources, especially if the project proponent is willing to assume a conservative level of risk and accept corresponding conservative mitigation measures.

- p. 12: Other comments have been submitted suggesting that BACI studies should be the exception rather than the norm. To the extent that BACI studies are kept in the guidelines, reference sites should not have to have a similar wind regime since such a site is likely to be a candidate for wind turbines.
- p. 15, Area Searches: Delete this paragraph. Area searches do not appear to be helpful in defining a site’s avian risk above and beyond what bird use counts (BUCs) would reveal (i.e., what is flying through the rotor-swept area). If other birds outside the immediate project area are at risk, the onsite BUCs should pick them up.
- p. 19, last para: Delete the reference to bat mortality at the High Winds Power project. As written, it implies that the bat mortality at this project is high or possibly biologically significant and there is no basis for such an implication.
- p. 20, 1st full para: A full year of bat studies should not be required for all sites, as the draft guidelines suggest. Just because the risk to bats may not be known for certain does not mean a full year of monitoring is necessary. Furthermore, the guidelines suggest that passive (less expensive) monitoring will typically be an option when, in fact, that may not be the case at certain remote sites with complicated terrain. This is a good example where focused research may be warranted at certain sites to help fill research data gaps on risk to bats (and certain project should help fund that effort), instead of requiring a full year of study at every site in order to fill those research gaps.
- p. 36, Operations Impact Avoidance, Minimization, and Mitigation, 1st para: Delete “During the bat migratory period . . .” through the rest of that paragraph. Feathering and removal of turbines should not be considered an option (and certainly not the only option in certain circumstances as the last sentence states). Rather, project proponents should be required to conduct sufficient studies to assess a project’s risk and mitigate in the form of compensation (e.g., offsite mitigation) if deemed necessary. Guidelines that suggest that wind energy companies may have to shut down or remove turbines when mortality exceeds some undefined level is likely to serve as a very real deterrent to wind energy development in California (see next comment).

- p. 39, 3rd para, 5th to last line: Change to: “Conversely, minimal *to no* operations monitoring *could* be suitable for a project in which pre-permitting studies indicated that impacts were likely to be low, or if the proposed project is adjacent to *or near* an established and well-studied wind farm that had credibly demonstrated *the* [delete minimal] levels of bird and bat impacts.” As discussed in an earlier comment, the level of impact associated with an existing, nearby project should not have to be “low” in order for the data to be effectively extrapolated to a new project nearby. What’s important is that the impacts of the existing site be sufficiently *defined* (whether they are low, moderate or high) such that defining them again at the new nearby site is a waste of time and resources, especially if the project proponent was willing to assume a conservative level of mortality and accepted correspondingly conservative mitigation measures.